



MISSOULA CONSERVATION DISTRICT

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December 10, 2013

Water Policy Interim Committee,
% Jason Mohr, Research Analyst
Montana Legislative Environmental Policy Office
Capitol Building, Room 171
Helena, MT 59620

RE: Definitions of Perennial Streams – SB 310 Law (Natural Streambed & Land Preservation Act of 1975)

Dear Water Policy Interim Committee Members,

Missoula Conservation District wishes to go on record as opposing any proposed changes of the 310 Law. The present definition of what constitutes a "stream" and "natural perennial-flowing stream" are clear and straightforward.

75-7-103 (6) "Stream" means any natural, perennial-flowing stream or river, its bed, or its immediate banks except a stream or river that has been designated by district rule as not having significant aquatic and riparian attributes in need of protection or preservation under 75-7-102.

ARM 36.2.402 (7) "Natural perennial-flowing stream" means a stream which in the absence of diversion, impoundment, appropriation, or extreme drought flows continuously at all seasons of the year and during dry as well as wet years.

Since the 310 Law has gone into effect, the Board of Supervisors of Missoula Conservation District has handled 2,830 permits, emergencies, complaints, and violations. Of this total, 9 of the Board's decisions have been contested through arbitration or gone to Court. During the 37 years of administration of 310 Law, Missoula Conservation District has found the statutory language to be clear and understandable, especially when applied through the exceptionally transparent process prescribed by the law. There are no other stream permits that utilize a team approach to developing factual information with permitting decisions made in open meetings as is required by the 310 law.

The effort to amend the definitions is misguided. The law should be retained in its current state. The 310 Law gives notice to the public about what is to be regulated and allows the necessary flexibility to consider the myriad of fact situations in which it must be applied.

Finally, the legislative process is not predictable. Attempting to amend the currently clear and well established law presents an unacceptable risk that new amendments will end up being unclear, create confusion or have unintended consequences. "If it isn't broke, don't fix it" is a good common sense rule and should be applied here.

Sincerely,


Timothy J. Hall, Chairman
Missoula Conservation District

WATER POLICY INTERIM
COMMITTEE. 2013-14

Cc: Laurie Zeller, Bureau Chief, DNRC-Conservation Districts Bureau

January 7, 2014

Ex. No. 1